

MIII
Box 5
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George White

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IN THE MUNICIPAL COURT, CENTRAL JUDICIAL DISTRICT
OF MARIN COUNTY, STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

JAMES DANIEL DEXTER, (23)

Defendant

DA 56293 MMH

SUBPOENA-CRIMINAL ACTION

No. CR46623 Dept.

THE PEOPLE OF THE STATE OF CALIFORNIA,

TO:

George White
Calle Del Embarcadero, Stinson Beach 868-1582

Please appear in the office of the District Attorney, Room 155
Hall of Justice, at the time indicated below:

*car'd 15
Aug 11
Judge Smith*

YOU ARE COMMANDED TO APPEAR BEFORE DEPARTMENT NO. _____ OF THE
MUNICIPAL COURT, CENTRAL JUDICIAL DISTRICT OF MARIN COUNTY, STATE OF CALIFORNIA AT A
SESSION THEREOF TO BE HELD AT THE COURTROOM OF SAID COURT, IN THE HALL OF JUSTICE IN
THE CITY OF SAN RAFAEL, IN SAID MARIN COUNTY, ON THE **23rd** DAY OF **July**, 19 **70**,
AT **8:45** O'CLOCK, **A.M.**, AS A WITNESS IN A CRIMINAL ACTION PROSECUTED BY THE PEOPLE
OF THE STATE OF CALIFORNIA AGAINST SAID DEFENDANT .

AND YOU ARE REQUIRED ALSO TO BRING WITH YOU THE FOLLOWING:

*July 7-3 p - called should. Sgt + Jerry first then
Rich. Sgt Deane - Rich + Jerry went
Dexter has stay in car pckg (2?)*

*Randy Lee Dorman (22)
Martin Leonard Unsworth (25)
Robt Timmons (21)*

DATED: 7-20-70

DISTRICT ATTORNEY OF THE COUNTY OF
MARIN, STATE OF CALIFORNIA

By **MILTON M. HYAMS**

Deputy District Attorney

288.76

I, THE UNDERSIGNED, DECLARE THAT THE WITNESS NAMED IN THE WITHIN SUBPOENA RESIDE MORE THAN 150 MILES FROM THE COURT HOUSE, SAN RAFAEL, CALIFORNIA, NOT WITHIN SAID COUNTY OF MARIN; THAT HE BELIEVES THE EVIDENCE OF SAID WITNESS IS MATERIAL, AND ATTENDANCE AT THE TRIAL OF THE WITHIN ENTITLED ACTION IS MATERIAL AND NECESSARY.

WHEREFORE, DECLARANT PRAYS THAT AN ORDER BE MADE REQUIRING SAID WITNESS TO ATTEND ON THE DAY AND AT THE TIME AND PLACE IN THIS SUBPOENA MENTIONED.

EXECUTED ON _____ AT _____, CALIFORNIA.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

SIGNATURE OF DECLARANT TITLE OR POSITION OF DECLARANT

UPON READING THE FOREGOING DECLARATION, IT IS HEREBY ORDERED THAT THE WITNESS REFERRED TO IN THE SAID DECLARATION, AND NAMED IN THE WITHIN SUBPOENA, ATTEND BEFORE THE SAID COURT AT THE TIME AND PLACE AS IN SAID SUBPOENA COMMANDED.

DATED: _____ JUDGE OF THE MUNICIPAL COURT
CENTRAL JUDICIAL DISTRICT OF
MARIN COUNTY

CERTIFICATE OF SERVICE

I CERTIFY THAT I SERVED THE WITHIN SUBPOENA BY SHOWING THE ORIGINAL TO EACH OF THE FOLLOWING NAMED WITNESSES PERSONALLY, AND BY INFORMING EACH OF SAID PERSONS OF ITS CON- TENTS AND BY DELIVERING TO EACH OF SAID PERSONS A COPY THEREOF, ON THE DATE AND PLACE SET FORTH OPPOSITE EACH NAME:

NAME OF WITNESS SERVED	DATE OF SERVICE	CITY WHERE SERVED	PEACE OFFICER
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

I HEREBY CERTIFY THAT AFTER DUE SEARCH AND DILIGENT INQUIRY, I HAVE BEEN UNABLE TO LOCATE THE FOLLOWING WITNESS _____

DATED: _____ PEACE OFFICER

UNITED STATES COAST GUARD

Address reply to:
COMMANDER
13th Coast Guard District
618 Second Avenue
Seattle 4, Washington

Receipt is hereby acknowledged for the below-listed document(s):

- () License No. _____
- () Certificate of Service No. _____
- () Merchant Mariner's Document No. 2-385 815
- () _____

Dated: 9 August 1955

James Wiesen
James Wiesen
2385 815

Released by:

W. C. Foster
W. C. FOSTER, CDR, USCG
Sr. Investigating Officer

FILED

GEO. H. GROSS
H. HUDSON

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MARIN

THE PEOPLE OF THE STATE
OF CALIFORNIA,
Plaintiff,

vs.

WILLIAM KENT ESTATE COMPANY,
a corporation, et al.,
Defendants.

No. 32824

MEMORANDUM OPINION

The opening comments in the document entitled "Plaintiff's Response to Defendants' Memorandum as to Seasonal Changes" had lulled me into the belief that the parties might wish to file further memoranda. However, a recent letter from plaintiff's counsel convinces me that nothing further will be forthcoming. And correct calls my attention to the fact that it has been a long time since the parties have presented evidence before the court. The case presented by the people has been interesting, instructive and thoroughly prepared, and the evidence was presented through witnesses who were as competent, knowledgeable and credible as any I have ever heard. I am prepared to accept all of the facts established by the People's evidence. For that matter, although the defendant presented far less testimony, I am equally prepared

1 to accept the facts established by defendants' evidence. Despite
2 some observations to the contrary in plaintiff's opening memoran-
3 dum I am still unable to discern any significant actual contro-
4 versy. I still believe the case could have been tried upon a
5 stipulated set of facts, except that without the valuable assistance
6 of the witnesses who testified, neither counsel nor the Court
7 would have known what facts to include in any stipulation.

8 Some of the facts which appear to me to be established by
9 the evidence may be briefly summarized. The beach on the ocean
10 side of the Bolinas Lagoon Sandspit is a sandy beach, of a configu-
11 ration common to many beaches on the California coast. The beach
12 profile changes constantly due to the action of the water in
13 depositing and washing away sand. In general, from late spring
14 through late fall the action of the water will tend to deposit
15 sand on the beach thus building up the land area, while from late
16 fall or early winter through early spring the sand will be washing
17 away from the beach, thus diminishing the land area.

18 Although the general pattern is relatively to detect, these
19 seasonal changes do not take place in any precise pattern. The
20 condition of the beach on a particular day in a particular year
21 is not likely to be the same on the same day of some other year.
22 Nor do these seasonal changes occur annually in offsetting pairs,
23 so as to permit the fixing of a precise midline which would be
24 equidistant from the annual extremes. It is also fair to state
25 that they are, in the main, gradual and imperceptible in the
26 sense that, while one can observe the changes going on, it takes
27 an appreciable period of time before a change in the condition
28 of the beach becomes noticeable.

29 By their complaint in this action the People allege that the
30 "ordinary high water mark" which constitutes the seaward boundary
31 of privately owned lands has shifted landward due to natural eros-
32 ion, since it was first established by the Atherton Survey in 1949,

1 and that therefore a fence, which defendant has sought to maintain
2 out to the Atherton Line, encroaches on public lands and consti-
3 tutes a nuisance. The People expressly do not contend that this
4 is an action to establish the seaward boundary of privately owned
5 lands and the Court of Appeal has accepted this view in holding
6 that the owner of the land underlying the easement upon which
7 defendant maintains the fence is not an indispensable party.
8 Nevertheless, the location of the seaward boundary of defendant's
9 easement is one of the critical issues in this case, since it is
10 the People's contention that the fence actually extends onto
11 public lands.

12 The evidence establishes that in 1949 Tracy Atherton sur-
13 veyed a meander line along the beach describing by metes and bound
14 what was then determined to be the location of the ordinary high
15 water mark. There is really no dispute over what is meant by the
16 phrase "ordinary high water mark". It is the line determined by
17 the intersection of a plane representing the elevation of ordinary
18 high tide with the beach surface. The People have devoted con-
19 siderable space in their memorandum to urging the Court to adopt,
20 as a proper method of determining the correct elevation of the
21 appropriate tidal plane, the so called Federal Rule which averages
22 all high tides to obtain a mean high tide datum plane, rather
23 than the California Rule which calls for considering only the so-
24 called "neap tides."

25 They argue persuasively that the California cases which led
26 to the neap tide rule were based on a misconception of early
27 common law principles: that the phrase "neap tide" actually means,
28 even under the California authorities, ordinary tides excluding
29 only the extreme spring tides; that, if this view be taken, the
30 difference between the California "neap tide" rule and the Federal
31 Rule would be negligible; and, finally, that it is not possible to
32 compute, with any degree of scientific accuracy, a mean high tide

1 datum plane based upon neap tides and therefore the Federal Rule
2 must be used.

3 One difficulty with these contentions of the People is that,
4 with the possible exception of the last one, they are addressed
5 to the wrong court. The Court of Appeal in this very case has
6 stated that the neap tide rule applies and has defined what it
7 meant by neap tides. The arguments advanced by the People might
8 well persuade the Court of Appeal to clarify, or even change, its
9 position in this regard, but it is not for this Court to take a
10 different position. The Court of Appeal did indicate that it might
11 not be possible to develop sufficient data to arrive at an eleva-
12 tion based on neap tides, and therefore it might be necessary to
13 use the Federal Rule. I believe the evidence would support a
14 finding to this effect.

15 The more important difficulty with these contentions as
16 advanced by the People is that they are not relevant to any issue
17 which the Court is called upon to decide in this case. It must
18 be remembered, as pointed out above, that the principal thrust of
19 the People's case is that the ordinary high water mark, regardless
20 of how it must be computed and located, has moved since it was
21 located by Mr. Atherton in 1949. As I interpret their arguments
22 they advance two principal contentions in support of this position.
23 First, they contend that it moves constantly because of the
24 changing condition of the beach as described above, that this
25 movement is gradual and imperceptible thereby bringing into play
26 the legal doctrines of accretion and reliction, and that the
27 application of these doctrines means that there is a constantly
28 changing seaward boundary of privately owned lands. Secondly,
29 if this contention be rejected, the People contend that, on the
30 basis of scientific evidence presented, and in accord with what
31 they believe to be the governing legal principles, the Court should
32 now determine that the actual location of the ordinary high water

1 mark is different from, and presumably landward of, the Atherton
2 line.

3 Taking up the latter proposition first, it should be readily
4 apparent that this would involve not a determination of whether
5 the ordinary high water mark has moved since Mr. Atherton located
6 it, but whether he located it correctly in the first place. Such
7 a determination seems to me to be completely beyond any issue
8 framed by the pleadings in this case. Nowhere, in the People's
9 complaint do they assert that the Atherton line did not describe
10 the ordinary high water mark as it existed when surveyed in 1949.
11 On the contrary they affirm that it did, presumably regardless of
12 what particular methods were used to compute the appropriate tidal
13 datum plane. It is, of course, readily apparent from the descrip-
14 tion of the beach set forth above that, had Mr. Atherton conducted
15 his survey at some other time of the year, he would have arrived
16 at a different location for his line. If he had run his survey
17 in April it might well have been considerably landward; if in
18 middle or late November, it would probably have been further to
19 seaward. However, as I view the issues in this case, these con-
20 siderations are without legal significance. He located it where
21 he did and both sides, by their pleadings in this case, accepted
22 the Atherton line as marking the then location of the ordinary
23 high water mark.

24 It therefore becomes necessary to consider the People's first
25 proposition, namely, that the ordinary high water mark is a con-
26 stantly fluctuating line and that this constant fluctuation, by
27 an application of the legal doctrines of accretion and reliction,
28 produces a constantly changing boundary. The short answer to this
29 proposition is that the Court of Appeal, in this very case, has
30 held that the ordinary high water mark cannot be a constantly
31 fluctuating line. However, the People argue that this ruling is
32 not binding because in reviewing the first trial the Court of Appeal

1 did not have before it sufficient evidence to determine whether
2 the doctrine of accretion and reliction could be applied, and
3 expressly left this question open. I agree that the Court of
4 Appeal in the first trial did not have sufficient evidence to
5 pass upon the question of whether these doctrines applied, or for
6 that matter, to determine whether the intersection of the tidal
7 datum plane of the beach was in truth a constantly fluctuating
8 line or in what manner it fluctuated. Only four surveys were
9 presented at that trial.

10 The People contend that the Court of Appeal opinion suggests
11 that if changes in the beach were gradual and imperceptible, and
12 if extreme ranges did not occur annually in offsetting pairs,
13 then the rules of accretion and reliction would apply. The Court
14 of Appeal expressed concern over whether annual changes of eighty
15 feet or more could possibly be sufficiently gradual and imperceptible
16 to apply these rules, but the People argue that this concern is
17 dispelled by the evidence which establishes that such changes are
18 gradual and imperceptible in the fashion I have described above.
19 However, I do not so interpret the Court of Appeal opinion. I do
20 not read the opinion as suggesting that all that is required for
21 the Court to apply the rules of accretion and reliction is to
22 find that the changes are in fact gradual and imperceptible and
23 that the extreme ranges do not occur in offsetting pairs annually.
24 On the contrary, I feel the opinion must reasonably be interpreted
25 as forbidding the application of these doctrines when the changes,
26 regardless of how gradual and imperceptible they may be, are
27 seasonal and recur annually, without producing any discernible
28 net change in the beach so that it is possible to determine whether
29 the beach at a particular time of the year is larger or smaller
30 than it was ten, twenty-five or even a hundred years ago. It is
31 difficult for me to reconcile any other rule with the Court's
32 comments to the effect that, while the certainty of a line around

1 Blackacre could not be achieved, greater certainty is required
2 than a constantly fluctuating boundary.

3 The People argue strenuously that this Court is precluded
4 by the "law of the case" from regarding the Atherton line as a
5 fixed and permanent location of the ordinary high water mark. I
6 have no such intention, but I do not feel this has anything to do
7 with the "law of the case." The People's position in this regard
8 reflects a basic misunderstanding of what happened at the first
9 trial. The defendant, if I interpret its position correctly, has
10 never urged that the Atherton line was a fixed, permanent loca-
11 tion of the ordinary high water mark. Instead it argued at the
12 first trial that it was a fixed, agreed boundary, regardless of
13 where the ordinary high water mark might be. By far the major
14 portion of the first trial was devoted to this controversy. I
15 disagreed with the defendant's contention and as to this aspect
16 of the case the Court of Appeal agreed with the trial court. I
17 then proceeded to hold that the ordinary high water mark was a
18 constantly fluctuating line, a ruling which now, upon reflection,
19 I feel was hasty and ill considered. I think the Court of Appeal
20 opinion correctly points out that it cannot be so considered, and
21 I know of no reason or authority which would permit the applica-
22 tion of the doctrines of accretion and reliction to bring about
23 what would be a constantly changing boundary.

24 The People point out that such authority that does exist
25 holding that the doctrines of accretion and reliction do not apply
26 to seasonal changes involve non-tidal lakes and rivers where land
27 is exposed and covered by the rise and fall of waters, rather than
28 by changes in the beach contours. I am mindful of this distinction,
29 but it still seems to me that the principle is a valid one. I
30 know of no case which holds that these doctrines do apply to
31 seasonal changes in the shoreline, and it would seem to me that
32 there are sound policy reasons for refusing to apply them to such

1 changes. The People express concern that if their view of the
2 constantly fluctuating boundary is not accepted, vast problems
3 will result in connection with the State's rights in other shore-
4 line beaches. It seems to me that if the People's views are
5 accepted, complete chaos will be the result in seeking to ascertain
6 what are public and what are private lands.

7 If my views are correct it is apparent why the People's con-
8 tentions with respect to the proper manner of computing the approp-
9 riate tidal datum plane are irrelevant. We are not here concerned
10 with where the ordinary high water mark should be if it were being
11 located for the first time, but rather whether it has moved from
12 its earlier determined location in a manner legally sufficient
13 to effect a boundary change. If, for example, the land here in
14 question had been described by reference to the ordinary high
15 water mark as the seaward boundary, without more, and if this were
16 a quiet title action seeking a judicial determination of the loca-
17 tion of that boundary, all of the People's evidence in support
18 of these contentions would be highly relevant. Such evidence, had
19 it been available, might well have been appropriately presented
20 in the quiet title action which followed the Atherton survey,
21 although I understand that it was not, the parties apparently being
22 content to rely on the Atherton line.

23 It is in this light that the Court of Appeal comment about
24 annual offsetting pairs which would permit the determination or
25 approximation of an average should be considered. Such an approach
26 would be eminently sensible if we were considering for the first
27 time the location of the ordinary high water mark.

28 However, the evidence in this case establishes that regard-
29 less of what methods are used to compute the appropriate tidal
30 datum plane, the Atherton line is within the extreme ranges of the
31 location of a line formed by the intersection of such a plane with
32 the beach. In fact, it is in my view surprisingly close to what

1 might be regarded as an approximate mean. During certain periods
2 of the year the line formed by the intersection of a tidal plane,
3 regardless of the method used to compute it, with the beach will
4 be landward of the Atherton line; while during other periods, it
5 will be seaward. The ordinary high water mark was located in 1949
6 by a state land survey, conducted at a time of year apparently
7 determined more-or-less by chance, and there is nothing which would
8 justify the Court in finding that it has moved in a manner which
9 would legally cause a change in boundary.

10 Finally, the People contend that if its contentions as to the
11 seaward boundary of private lands be rejected, nevertheless they
12 are entitled to injunctive relief preventing defendant from inter-
13 fering with public access to navigable waters. It strains the
14 imagination somewhat to consider the surf off a sandspit as navi-
15 gable, in the sense of providing passage for watercraft, at least
16 any watercraft one wishes to stay afloat. However, I believe
17 these waters probably do qualify as navigable in the sense that
18 they are impressed with a public trust for navigation, fishing and
19 recreation.

20 However there is virtually no evidence that defendant is in
21 fact excluding the public from any navigable waters. Some evidence
22 which was presented suggests that the defendant does not seek to
23 exclude the public from the "wet sand". Defendant is under no
24 duty, nor is any other private owner, to permit members of the
25 public to pass over private lands to reach navigable waters.
26 Gion vs. City of Santa Cruz, 2 Cal. 3d 29, does not hold to the
27 contrary. Gion held that a long period of public use in crossing
28 private land adjoining a public beach, without opposition by the
29 owners, gave rise to a public easement.

30 It is apparent that there will be periods of the year when
31 there will be ocean waters covering portions of the land, landward
32 of the Atherton line. It is likewise apparent that there will be

1 periods of the year when the beach has been built up, and there
2 will be no waters, navigable or otherwise, in this area. There
3 is no evidence that a fence to the Atherton line would in fact
4 bar the public from access to such waters as might be landward of
5 the line.

6 It must be kept in mind that what we are really talking about
7 in this case is whether a fence in a certain location constitutes
8 a nuisance. I have already concluded that it is not located on
9 public lands and therefore cannot be deemed a nuisance on that
10 basis. There is nothing in the record from which the Court could
11 conclude that the fence itself, as constructed and maintained in
12 the past, has ever prevented anyone from walking in the water along
13 the sandspit. Conceivably if the fence were constructed and main-
14 tained in such a fashion as to effectively bar public access to
15 the water along the beach, the People might successfully seek in-
16 junctive relief. No such situation is presented by the record in
17 this case.

18 In reaching this conclusion I am mindful of the case of
19 Wilbour vs. Gallagher, 462 Pac. 2d 232, in which the Washington
20 Supreme Court prevented defendant landowners from filling lands
21 which were normally covered by water during certain periods of the
22 year. In that case the activities of the defendants would have
23 effectively and permanently diminished the area occupied by navi-
24 gable waters. No such action is contemplated by defendant here,
25 nor would it appear that any such action would be possible.

26 Some comment should be made with respect to the public policy
27 arguments which run like a recurring theme through the People's
28 memoranda. This Court is as liberal and sympathetic to the public
29 interest in matters of this kind as the law permits. However I
30 also have some sympathy for the constitutional provision which
31 states that private property may not be taken without just com-
32 pensation. There are considerations to be borne in mind from the

1 standpoint of defendant.

2 Although I felt at the first trial that defendant had not
3 established that a fixed and agreed upon boundary had been deter-
4 mined in the manner prescribed by the applicable statutes, I felt
5 then, and still feel, that in 1949 defendant's agents sought to
6 do just that, and that they acted in good faith throughout their
7 negotiations and correspondence with the State at that time. The
8 fact that defendant acted in good faith and that defendant's
9 agents may well have thought that an agreed boundary had been
10 determined was no reason for recognizing such a boundary if it
11 had not been legally established. By the same token People's
12 public policy arguments afford no basis for disregarding such
13 rights as defendant did acquire by the 1949 proceedings. Stated
14 as simply as possible it is my view that defendant acquired the
15 right to regard the Atherton line as representing the ordinary
16 high water mark, and, therefore the seaward boundary of private
17 ownership, until subsequent changes occurred in the beach contour
18 which were legally sufficient to effect a boundary change. In
19 my view, such changes have not yet occurred.

20 Nor do I share the People's concern that this decision, if
21 upheld, will cause large scale problems with other beaches. In
22 those areas where an ordinary high water mark has not been located
23 by metes and bounds, there are statutory procedures which permit
24 the establishment of a fixed boundary. In these proceedings much
25 of the evidence which People presented in this case as to the
26 computation of tidal datum planes and changes in beach contours
27 would be highly pertinent. Where a line has been established
28 which, as here, the State is required to respect, absent a legally
29 sufficient change, and the State desires to acquire more beach area
30 for public use, there is nothing to prevent the exercise of the
31 power of eminent domain. Public monies paid to acquire beach lands
32 might constitute a wiser expenditure than public monies expended

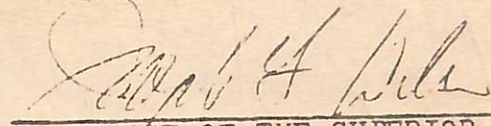
1 in litigation of the type in which we are presently involved.

2 In any event, for the reasons which I have set forth in the
3 foregoing memorandum, I have concluded that the People are not
4 entitled to relief in this action, and that judgment should be
5 entered for defendant. Counsel for defendant is requested to
6 prepare appropriate findings and judgment.

7 Dated this 2nd day of February, 1971; San Rafael, California.

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JUDGE OF THE SUPERIOR COURT

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To - Probation Officer
U. S. Federal District Court
New Orleans, La.

AFFIDAVIT
OF
GEORGE H. WHITE

I, George H. White, being duly sworn, on oath depose and say:-

1. I am a native and citizen of the United States, presently residing at (give address) , California.

2. That I am a retired employee of the United States Bureau of Narcotics, having been an agent for before my retirement in (year) .

3. I first met Jean Pierre Lafitte, also known as Jean Martin, who is presently a resident of New Orleans, La., about 1951.

4. At that time, Mr. Lafitte, after an investigation into his character and background by the Bureau of Narcotics, was engaged to do some undercover work as a Special Agent of the Bureau of Narcotics. As a result of his own initiative and skill, and at a great danger to his own life and safety, Mr. Lafitte achieved complete penetration into an international drug organization that had been smuggling drugs into the United States for many years. Among the leaders of this drug ring was one "Orsini", a French national and long-time suspected drug smuggler.

During the course of his penetration of this organization, Lafitte introduced a U. S. Narcotics agent into this organization as his "partner". He adduced evidence which exposed the entire complex conspiracy. He purchased \$100,000 in counterfeit money for the Government's evidence and purchased a large

quantity of heroin from the suspects. As a result of Mr. Lafitte's work, all persons involved were arrested and brought to trial.

Lafitte was the principal Government witness against these persons and for many days withstood a withering barrage of questions from a battery of competent lawyers, each attempting to attack his credibility and integrity. Although they had made extensive investigations in United States and Europe, the defense was unable to discredit the witness.

5. Mr. Lafitte was engaged by the undersigned to investigate one Ray "Lemons" Maresca, then regarded the King of the Connecticut underworld and twice-connected dope peddler. Lafitte immediately ingratiated himself to Maresca and arranged for Maresca to sell a large quantity of dope to the agent. Thereafter, and before his arrest, Maresca negotiated for a large amount of counterfeit money and also arranged for delivery of a large quantity of contraband firearms.

In this matter Lafitte was introduced by Maresca to a captain of the New Haven Fire Department who had the gun connections.

Mr. Lafitte introduced the undersigned to the Fire Chief, and a delivery of firearms was made, resulting in the arrest of the captain and others involved.

6. After the Orsini case, Mr. Lafitte accompanied Narcotics agents to the West Coast and successfully obtained competent evidence for the U. S. Government and Los Angeles Police resulting in the apprehension of notorious gangsters and dope smugglers.

In one case Mr. Lafitte procured the return of \$1,100,000 in stolen securities and in another \$30,000 worth of smoking

opium was seized. (If there are any other cases that can be mentioned and described, include them - e.g. Joe Vallachio, Nig Rosen)

7. I know of my own knowledge that Mr. Lafitte has performed outstanding investigative work for the Federal Bureau of Investigation and the U. S. Immigration Service as well as many other Federal, State and local agencies.

(if he has knowledge of any of these cases, describe them, e.g.

U. S. vs. Kretshe
U. S. vs. Montos
U. S. vs. Makri
U. S. vs. Jean Aron et al
U. S. vs. Shillitini (2)

Deposition should end with a statement that he has always found you honest, intelligent, trustworthy, reliable, etc.

A F F I D A V I T

Stinson Beach
County of Marin
State of California.
April 1, 1970

My name is George H. White. I was born in Los Angeles, Calif., June 22, 1908. For thirty two years I was employed by the U.S. Government mostly as an Agent of the U.S. Bureau of Narcotics. For about two thirds of this period I was a Field Executive of this Bureau. (Attached is a document showing my detailed personal history.)

I have known JEAN PIERRE LAFITTE, also known as JEAN MARTIN, now of New Orleans, since about 1950 when I met him in New York City. Because of his international experience and fluency in several foreign languages I enlisted his assistance in detecting the criminal operations of a large group of French, Italian and Corsican narcotic traffickers. After a careful investigation of his background and character Mr Lafitte was enrolled as a "Special Employee" of the Bureau of Narcotics in an "undercover" or secret capacity. This was the beginning of such a relationship between Mr. Lafitte and the Bureau of Narcotics, the U.S. Secret Service and the FBI as well as various other police agencies until about 1959.

Mr. Lafitte's successful operations as an undercover agent were due entirely to his intelligence, imagination, courage and integrity and at all times were conducted under the close direction of responsible officials. Of my own knowledge I know that he was in no way whatsoever connected with these various criminal enterprises except as an Agent of the law in exactly the same manner that I myself have operated as an undercover agent during my years of service. In such a capacity Lafitte commonly used various false names and pretended to have whatever criminal background that seemed appropriate. This is standard operational procedure and no derogatory inference whatsoever should attach to Mr. Lafitte because of such masquerade.

All of the persons involved through Mr. Lafitte's work were arrested and brought to trial. He was the principal witness against these defendants and on each occasion withstood a withering barrage of questions from competent lawyers, each attempting to attack his creditability and integrity. Although attorneys for the defense made painstaking investigation of Lafitte's background both in the United States and Europe they were never able to discredit this witness.

As an example of the type of operation conducted by Lafitte after the Orsini operation I assigned him to investigate one Ray "Lemons" Maresca, twice convicted narcotic trafficker and currently the most important figure in the Connecticut underworld. Lafitte shortly became friendly with Maresca and then introduced him to a U.S. Narcotic Agent posing as a customer who then purchased a large quantity of evidential narcotics. Just prior to the arrest of Maresca Lafitte arranged for Maresca to introduce the undersigned to a Captain of the New Haven Fire Dep't. who had conspired with Maresca to sell incendiary materials and instructions to professional arsonists and who also had available for sale large quantities of firearms stolen from the Colt Manufacturing Co. As a result I made a purchase of an incendiary fire bomb and more than one hundred handguns from the Fire official and then arrested him on behalf of local authorities.

As a result of Lafitte's success with the Bureau of Narcotics his services were utilized by the U.S. Secret Service in New York City and this resulted in the seizure of vast quantities of counterfeit money at the

A F F I D A V I T (Page 2)

subsequent arrest of these dangerous criminals.

I also know that he has performed similar services for the FBI both in New York City and in Chicago. In New York he enabled the FBI to recover valuable stolen bonds and apprehend the fences. In Chicago he aided the FBI in recovering art treasures of great value stolen from a Church.

Because of the lapse of time and the lack of ready access to pertinent files I am unable to give the exact designation of the various prosecutions resulting from Mr. Lafitte's investigations. In addition to ORSINI AND MARESCA, however, I believe the following trials represent some of the matters in which Lafitte acted for the government:

U.S. vs. Kretsch	U.S. vs. Macri	U.S. vs. Jean Aron
U.S. vs. Montos	U.S. vs. Shillitani	(two cases)
U.S. vs. Vallachio	U.S. vs. Nig Rosenf	

During the period of my official association with Mr. Lafitte we also had some social association. He has visited with my family and I have visited with his. During all of my association with him I have always found him to be honest, truthful and of good moral character.

George H. White,
District Supervisor, U.S. Bureau of Narcotics,
(Retired)
Lt. Col., AUS MIR (Inact) 0 90 30 85

AFFIDAVIT

April 22, 1970
Stinson Beach
Marin County, Calif.

My name is GEORGE H. WHITE. I was born in Los Angeles, Calif., June 22, 1908. For thirty two years I was employed by the U.S. Gov't. mostly as an Agent of the U.S. Bureau of Narcotics. From the period July, 1945, until my retirement in 1966 I was a District Supervisor of the Bureau of Narcotics, having at various times jurisdiction over most of the States. (Attached is a document showing my complete and detailed employment history.)

I have known JEAN PIERRE LAFITTE since 1950 when I encountered him during the course of my official duties at New York City. At that time Lafitte was in difficulties with the U.S. Immigration Service and offered his assistance to the government in detecting the operations of an important group of narcotic law violators in the New York area headed by one ORSINI. In exchange, the Bureau of Narcotics was to furnish Lafitte with such assistance and support as was proper and possible in resolving his Immigration problem. Arrangements were made to enroll Lafitte as a "Special Employee" of the Bureau of Narcotics on a subsistence only basis and this was the beginning of a relationship between Lafitte and the Bureau of Narcotics (and other government agencies) until 1959.

Lafitte's successful operations as an Undercover Agent on behalf of the Government were due entirely to his intelligence, imagination, courage and integrity and at all times were conducted under the close direction of responsible government officials. His investigations resulted in the conviction of some of the most important narcotic traffickers ever apprehended by the government. In addition, he performed similar services for the U.S. Secret Service and for the Federal Bureau of Investigation.

As a result of my own investigations and supervision of Mr. Lafitte's activities I know that he was in no way whatsoever connected with these various criminal enterprises except as an undercover Agent of the Government in exactly the same manner that I have myself operated in an undercover capacity throughout my years of service. In his capacity as an undercover agent of the government Lafitte commonly used various false names and pretended to have various criminal backgrounds in order to obtain the confidence of the suspected criminals under investigation. This, of course, is standard operational procedure and no derogatory inference whatsoever should attach to Mr. Lafitte, or any other undercover agent because of such masquerade.

During the ten year period of my official association with Mr. Lafitte it happened that we also had some social association. He has visited with my family and I have visited with his. In my association with him I have always found him to be honest, truthful and of good moral character.

George H. White

George H. White,
District Supervisor, U.S. Bureau of Narcotics
(Retired) Lt.Col. AUS (MIR) 0 903085 (Inact)

*Affidavit made
before me at Stinson Beach, Marin Co., Calif.
3-22-70 by [signature]*

SUBPENA

In the matter of the investigation of

TO:

AT:

GREETING:

By the service of this subpoena upon you by Narcotic Agent _____,
who is authorized to serve it, you are hereby commanded and required to appear before _____,
an officer of the Bureau of Narcotics, to give testimony and
to bring with you and produce for examination the following books, records, and papers at the time and
place hereinafter set forth:

Place and time for appearance:

At _____

_____ on the _____ day of _____, 19____,

at _____ o'clock _____ M.

Failure to comply with this subpoena will render you liable to proceedings in the district court of the United States to
enforce obedience to the requirements of this subpoena, and to punish default or disobedience.

Issued under authority of Public Law No. 362, 84th Cong., 1st Session. Treasury Department Order No. 180-3
and Bureau of Narcotics T. D. No. 52 this _____ day of _____, 19_____.

ORIGINAL

Signature: _____

Title: _____

9/2/66

CERTIFICATE OF SUBPENA

(Pursuant to Public Law No. 362, 84th Cong., 1st Session)

I hereby certify that I served the subpoena on the reverse hereof

DATE SUBPENA SERVED (Day, month, year)

TIME

HOW
SUBPENA
WAS
SERVED

(Check one)

☐

I handed an attested copy thereof to the person to whom it was directed.

☐

I handed an attested copy thereof to an officer or agent of the company authorized to receive service of process.

SIGNATURE

TITLE

SUBPENA**In the matter of the investigation of****TO:****AT:****GREETING:**

By the service of this subpena upon you by Narcotic Agent _____,
who is authorized to serve it, you are hereby commanded and required to appear before _____
_____, an officer of the Bureau of Narcotics, to give testimony and
to bring with you and produce for examination the following books, records, and papers at the time and
place hereinafter set forth:

Place and time for appearance:

At _____
_____ on the _____ day of _____, 19____,
at _____ o'clock _____ M.

Failure to comply with this subpena will render you liable to proceedings in the district court of the United States to
enforce obedience to the requirements of this subpena, and to punish default or disobedience.

Issued under authority of Public Law No. 362, 84th Cong., 1st Session. Treasury Department Order No. 180-3
and Bureau of Narcotics T. D. No. 52 this _____ day of _____, 19_____.

ATTESTED COPY

Signature: _____

Title: _____

Public Law 362—84th Congress
Chapter 800—1st Session
H. R. 7018

AN ACT

To authorize subpoenas in connection with the enforcement of the narcotic laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of any investigation which, in the opinion of the Secretary of the Treasury, is necessary and proper to the enforcement of the laws of the United States relating to narcotic drugs

Narcotic laws.
Subpoenas.

69 Stat. 684.

69 Stat. 685.

and marihuana, the Secretary of the Treasury is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records (including books, papers, documents, and tangible things which constitute or contain evidence) which the Secretary of the Treasury finds relevant or material to the investigation. The attendance of witnesses and the production of records may be required from any place in any State or in any Territory or other place subject to the jurisdiction of the United States at any designated place of hearing: *Provided*, That a witness shall not be required to appear at any hearing distant more than one hundred miles from the place where he was served with subpoena. Witnesses summoned by the Secretary of the Treasury shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

Witness fees.

SEC. 2. A subpoena of the Secretary of the Treasury may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

SEC. 3. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary of the Treasury may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on or of which the subpoenaed person is an inhabitant, carries on business or may be found, to compel compliance with the subpoena of the Secretary of the Treasury. The court may issue an order requiring the subpoenaed person to appear before the Secretary of the Treasury there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district whereof the subpoenaed person is an inhabitant or wherever he may be found.

Approved August 11, 1955.

SUBPOENA